

Appl. No. 10/682,108
Amdt. dated April 18, 2006
Reply to Office Action of March 2, 2006

REMARKS/ARGUMENTS

Original claims 1 - 31 and new claims 32 – 35 are presented for Examiner Bui's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicant has replaced the paragraph appearing on page 11 and starting at line 30 with a new paragraph to correct for grammar. On line 32, the word "opening" has been replaced by the word "opened." No new matter has been introduced by way of this change and therefore it should be entered at this time.

By way of the Office Action mailed March 2, 2006, Examiner Bui rejected claims 16 – 25, 30 and 31 under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. This rejection is respectfully traversed in view of the amendment made to independent claim 16.

Applicant has amended independent claim 16 to delete the word "other" and has inserted the phrase "front, back and pair of side" to correct for the 35 USC §112, second paragraph rejection raised by Examiner Bui. Applicant thanks Examiner Bui for pointing this item out and believes that independent claim 16, as well as dependent claims 17 – 25, 30 and 31, now satisfy 35 USC §112, second paragraph. Accordingly, this rejection should be withdrawn.

Applicant has amended independent claims 1 and 10 to delete the phrase "at least a portion of." In addition, Applicant has added the word "entire" before perimeter. Basis for this language is found in the specification on page 5, lines 27 – 28.

Applicant has added new claims 32 – 35. New claim 32 is a combination of original claim 1 and dependent claim 27. Examiner Bui has indicated on page 6 of her Office Action that claim 27 would be allowable if written in independent form. New claim 33 is a combination of original claim 10 and dependent claim 29. Examiner Bui has indicated on page 6 of her Office Action that claim 29 would be allowable if written in independent form. New claim 34 is a combination of original claim 16, after correcting for the 35 USC §112, second paragraph issue, and dependent claim 31. Examiner Bui has indicated on page 6 of her Office Action that claim 31 would be allowable if written in independent form. New claim 35 is similar to claim 1 except that it includes language stating that "said expansion means includes a pleat formed by folding four adjacent walls inward about said perimeter." Basis for this language is found in the specification at page 5, lines 27 – 28. Claim 35 is patentably distinct over the combination of Roussel and Bonnet for neither of these

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patents teach or describe a pleat formed by folding four adjacent walls inward about the perimeter of the package.

It should be noted that new claims 32, 33 and 34 differ from amended claims 1, 10 and 16 respectively, and therefore there is no double patenting issue.

By way of the Office Action mailed March 2, 2006, Examiner Bui rejected claims 1, 5, 6 and 9 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,377,837 to Roussel in view of the Great Britain Patent Application Number 2 310 652 to Bonnet. This rejection is respectfully traversed in view of the amendments made to independent claim 1.

Applicant has amended independent claim 1 to delete the phrase "at least a portion of." In addition, Applicant has added the word "entire" before perimeter. Basis for this language is found in the specification on page 5, lines 27 – 28. The claim language now recites that the expansion means includes a pliable member positioned about said entire perimeter. The perimeter is constructed of four adjacent walls, for example walls 24, 26, 28 and 30 shown in Fig. 1. As Examiner Bui correctly pointed out on page 3 of her Office Action, Roussel does not teach or disclose a pliable member being positioned about at least a portion of the perimeter. Bonnet does disclose a pliable member positioned about a portion of the perimeter but does not teach or disclose a pliable member positioned about the entire perimeter. In view of this, Applicant believes that amended claim 1 is patentably distinct over the combination of Roussel and Bonnet and should be allowed at this time.

By way of the Office Action mailed March 2, 2006, Examiner Bui rejected claims 2 - 4 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,377,837 to Roussel in view of the Great Britain Patent Application Number 2 310 652 to Bonnet and further in view of U.S. Patent Number 6,427,839 to Helfer-Grand. This rejection is respectfully traversed in view of the amendment made to independent claim 1 from which claims 2 – 4 depend.

Applicant has amended independent claim 1 to distinguish over the combination of Roussel and Bonnet. Helfer-Grand merely describes the pliable member as being an elastic material. Since the combination of Roussel, Bonnet and Helfer-Grand fail to teach or describe an expansion member being a pliable member positioned about the entire perimeter of the package, dependent claims 2 – 4 are patentable over the combination of Roussel, Bonnet and Helfer-Grand and should be allowed at this time.

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By way of the Office Action mailed March 2, 2006, Examiner Bui rejected claims 7 and 8 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,377,837 to Roussel in view of the Great Britain Patent Application Number 2 310 652 to Bonnet and further in view of U.S. Patent Number 3,145,840 to Wright. This rejection is respectfully traversed in view of the amendment made to independent claim 1 from which claims 7 and 8 depend.

Applicant has amended independent claim 1 to distinguish over the combination of Roussel and Bonnet. Wright merely describes the walls being formed from cardboard. Since the combination of Roussel, Bonnet and Wright fail to teach or describe an expansion member being a pliable member positioned about the entire perimeter of the package, dependent claims 7 and 8 are patentable over the combination of Roussel, Bonnet and Wright and should be allowed at this time.

By way of the Office Action mailed March 2, 2006, Examiner Bui rejected claims 10 - 15, 16 - 19 and 21 - 25 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,377,837 to Roussel in view of the Great Britain Patent Application Number 2 310 652 to Bonnet and further in view of U.S. Patent Number 5,934,470 to Bauer et al. This rejection is respectfully traversed in view of the amendment made to independent claim 10 from which claims 11 - 15 depend. Independent claim 16 and claims 17 - 19 and 21 - 25 which depend therefrom are also patentably distinct over this cited combination of prior art.

Applicant has amended independent claim 10 to distinguish over the combination of Roussel and Bonnet. Bauer merely shows an opening formed in at least one of the walls. Since the combination of Roussel, Bonnet and Bauer fail to teach or describe an expansion member being either a pliable member or a pleat positioned about the entire perimeter of the package, independent claim 10 is patentably distinct over this combination and should be allowed at this time. In addition, dependent claims 11 - 15, which depend from independent claim 10, are also patentably distinguishable over the cited combination of Roussel, Bonnet and Wright and should be allowed at this time. Independent claim 16 differs over the combination in that in paragraph c) it recites: "an expansion means including a pleat formed by folding four adjacent walls inward about the perimeter." The combination fails to teach or disclose a pleat formed about four adjacent walls. Accordingly, independent claim 16 and dependent claims 17 - 19 and 21 - 25, which depend therefrom, are also patentably distinguishable over the combination of Roussel, Bonnet and Wright and should be allowed at this time.

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By way of the Office Action mailed March 2, 2006, Examiner Bui rejected claims 20 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,377,837 to Roussel in view of the Great Britain Patent Application Number 2 310 652 to Bonnet and further in view of U.S. Patent Number 6,698,928 to Miller. This rejection is respectfully traversed.

Applicant's independent claim 16 is patentably distinguishable over the combination of Roussel and Bonnet for the reasons mentioned above. Miller merely shows a pull-tab attached to an end of a release strip. Since the combination of Roussel, Bonnet and Miller fail to teach or describe an expansion member being a pleat formed by folding four adjacent walls inward about the perimeter of the package, dependent claim 20 is patentable over the combination of Roussel, Bonnet and Miller and should be allowed at this time.

By way of the Office Action mailed March 2, 2006, Examiner Bui rejected claims 26, 28 and 30 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 5,377,837 to Roussel in view of the Great Britain Patent Application Number 2 310 652 to Bonnet, further in view of U.S. Patent Number 5,934,470 to Bauer et al. and further in view of U.S. Patent Application 2002/01112982 to Stagray et al. This rejection is respectfully traversed.

Applicant's independent claim 16 is patentably distinct over the combination of Roussel, Bonnet and Bauer for the reason stated above. Stagray et al. merely teaches a package capable of holding articles that has instructions on the package that inform the user as to how to open the package and how to use the articles. Since the combination of Roussel, Bonnet, Bauer and Stagray et al. fail to teach or describe an expansion member being a pleat formed by folding four adjacent walls inward about the perimeter of the package, dependent claims 26, 28 and 30 are patentable over the combination of Roussel, Bonnet, Bauer and Stagray et al. and should be allowed at this time.

For the reasons stated above, it is respectfully submitted that amended claims 1, 10 and 16, original claims 2 – 9, 11 – 15 and 17 – 31, along with new claims 32 - 35, are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

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Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I, Lanette Burton, hereby certify that on April 18, 2006, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

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